

# EXHIBIT B

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Z.A., an Infant, by and through his Parents  
and Natural Guardians, CARMIT  
ARCHIBALD and GEORGES  
ARCHIBALD, and CARMIT ARCHIBALD,  
*individually*

Plaintiff

v.

HYATT CORPORATION

Defendant.

Case No. 1:24-cv-3742

**PLAINTIFFS' COUNTER-STATEMENT OF MATERIAL FACTS AND ADDITIONAL FACTS**

Plaintiffs, Z.A., Carmit Archibald and Georges Archibald hereby respond to Defendant Hyatt Corporation's Statement of Material Facts as follows:

**DISPUTED AND UNDISPUTED FACTS**

Hyatt's Statement	Archibald's Response	Support for Response
1. Plaintiffs' allege that they were on a family vacation at the Park Hyatt St. Kitts, in St. Kitts, Nevis, when Z.A. was struck by an aquatic basketball hoop while playing basketball in the pool area on April 9, 2023.	Not Disputed.	N/A
2. Hyatt Corporation ("HC") is a Delaware incorporated company with its principal place of business in Illinois.	Not Disputed.	N/A
3. . Hyatt Hotels Corporation ("HHC") is HC's parent company, and is also a Delaware incorporated company with its principal place of business in Illinois.	Plaintiff lacks sufficient information to dispute or not dispute the facts alleged and requests jurisdictional discovery in order to properly evaluate Hyatt's claims.	N/A
4. The Park Hyatt St. Kitts (the "Resort") is a resort complex located in St. Kitts and Nevis in the British West Indies.	Plaintiff lacks sufficient information to dispute or not dispute the facts alleged and requests jurisdictional discovery in order to properly evaluate Hyatt's claims.	N/A
5. The Resort is owned by Range Developments Limited, a limited liability company incorporated in St. Kitts and Nevis, with its	Plaintiff lacks sufficient information to dispute or not dispute the facts alleged and requests jurisdictional discovery in order to properly evaluate Hyatt's claims.	N/A

Hyatt's Statement	Archibald's Response	Support for Response
principal place of business in St. Kitts and Nevis.		
6. Range Development Limited entered into a Management Agreement with Hyatt Caribbean Services, L.L.C., for the supervision, direction, control, management, and operation of the Resort.	Plaintiff lacks sufficient information to dispute or not dispute the facts alleged and requests jurisdictional discovery in order to properly evaluate Hyatt's claims.	N/A
7. Hyatt Caribbean Services, L.L.C., is incorporated in Delaware, with its principal place of business in Chicago, Illinois.	Plaintiff lacks sufficient information to dispute or not dispute the facts alleged and requests jurisdictional discovery in order to properly evaluate Hyatt's claims.	
8. Hyatt Caribbean Services, L.L.C., is a separate legal entity from HC.	Plaintiff lacks sufficient information to dispute or not dispute the facts alleged and requests jurisdictional discovery in order to properly evaluate Hyatt's claims.	N/A
9. Hyatt Caribbean Services, L.L.C., is a separate legal entity from HHC.	Plaintiff lacks sufficient information to dispute or not dispute the facts alleged and requests jurisdictional discovery in order to properly evaluate Hyatt's claims.	N/A
10. HC does not have any operational responsibility or direct ownership interest in the Park Hyatt St. Kitts property, or any portion of the facilities that comprise the Resort.	Partially Disputed. It is correct that HC does not have any direct ownership interest in the Park Hyatt or any portion of the facilities that comprise the Resort. It is incorrect that HC does not have any operational responsibility in the Park	Hyatt Hotels Corp., Annual Report (Form 10-K), at 17 (Feb. 23, 2023), available at <a href="https://d18rn0p25nwr6d.cloudfront.net/CIK-0001468174/311c84ef-5bee-4d6d-8008-eb5627900">https://d18rn0p25nwr6d.cloudfront.net/CIK-0001468174/311c84ef-5bee-4d6d-8008-eb5627900</a>

Hyatt's Statement	Archibald's Response	Support for Response
	Hyatt St. Kitts property, or any portion of the facilities that comprise the Resort.	
11. HC does not have any operational responsibility or direct ownership interest in the Park Hyatt St. Kitts property, or any portion of the facilities that comprise the Resort.	Partially Disputed. It is correct that HC does not have any direct ownership interest in the Park Hyatt or any portion of the facilities that comprise the Resort. It is incorrect that HC does not have any operational responsibility in the Park Hyatt St. Kitts property, or any portion of the facilities that comprise the Resort.	Hyatt Hotels Corp., Annual Report (Form 10-K), at 17 (Feb. 23, 2023), available at <a href="https://d18rn0p25nwr6d.cloudfront.net/CIK-0001468174/311c84ef-5bee-4d6d-8008-eb5627900">https://d18rn0p25nwr6d.cloudfront.net/CIK-0001468174/311c84ef-5bee-4d6d-8008-eb5627900</a>
12. HC does not have a partnership or joint venture with the Resort.	Plaintiff lacks sufficient information to dispute or not dispute the facts alleged and requests jurisdictional discovery in order to properly evaluate Hyatt's claims.	N/A
13. HC does not own, maintain or have control over the Resort or any of its facilities, including the pool area of the Resort, and is not involved in the Resort's operations directly nor indirectly	Disputed. The management agreement between Hyatt and the resort expressly gives Hyatt Services Caribbean L.L.C control over the Resort, its facilities, and the pool area. Hyatt Services Caribbean L.L.C. is a wholly owned Hyatt subsidiary and Hyatt therefore has the ability to exercise control over the resort. Plaintiffs further request jurisdictional discovery to determine the degree to which Hyatt exercises control over Hyatt Services Caribbean, L.L. C.	See ECF 23-3 at pages 10-11.
14. HC is not a party to any contract with either codefendant or any other entity for the management or operation of the Hotel or the Water Park.	Plaintiff lacks sufficient information to dispute or not dispute the facts alleged and requests jurisdictional discovery in order to properly evaluate Hyatt's claims.	N/A
15. The claims asserted by Plaintiffs	Disputed. Plaintiffs' claims are based on	Complaint ¶¶ 1;28;37-57.

Hyatt's Statement	Archibald's Response	Support for Response
do not involve Hyatt Corporation's operations and/or business contacts in New York to the extent any might exist.	apparent authority and agency by estoppel and depend on Hyatt's holding itself out as owning and controlling the resort.	
16. HC is not authorized to do business in the State of New York.	Disputed. Hyatt Corp. is authorized and registered to do business in New York.	Affidavit of Service of Summons and Complaint. Hyatt Corp. NYS DOS ID is 646189.
17. HC has never commenced any lawsuit in the State of New York related to Plaintiffs' stay at the Resort, the incident in the pool area of the Resort, or any of Plaintiffs' claims asserted in this lawsuit.	Disputed.  HC has commenced a lawsuit in New York or has been a plaintiff in a lawsuit in New York.	HYATT HOTELS CORPORATION et al - v. - LENDLEASE (US) CONSTRUCTION LMB INC. et al, Index <a href="#">155647/2018</a> (NY County Supreme Court).  Hyatt Corporation v. Kimball International Inc. et al., Index <a href="#">23352/2020E</a> (Bronx County Supreme Court).
18. HC has not generated any revenue in the State of New York related to Plaintiffs or their claims.	Disputed. Hyatt Corp. generated revenue from consumers in New York.	Archibald Declaration ¶¶XXXX. [Need something re: relationship between Hyatt and Hyatt Caribbean Services, LLC]
19. HC representatives did not travel to the State of New York to conduct any business transactions related to Plaintiffs or their claims	Plaintiff lacks sufficient information to dispute or not dispute the facts alleged and requests jurisdictional discovery in order to properly evaluate Hyatt's claims.	N/A
20. HC has no employees in any location including in the State of New York nor in the British West Indies.	Plaintiff lacks sufficient information to dispute or not dispute the facts alleged and requests jurisdictional discovery in order to properly evaluate Hyatt's claims.	N/A
21. HC has no accounts in the State of New York nor in the British West	Plaintiff lacks sufficient information to dispute or not dispute the facts alleged and	N/A

Hyatt's Statement	Archibald's Response	Support for Response
Indies.	requests jurisdictional discovery in order to properly evaluate Hyatt's claims.	
22. HC has no real property in the State of New York nor in the British West Indies.	Plaintiff lacks sufficient information to dispute or not dispute the facts alleged and requests jurisdictional discovery in order to properly evaluate Hyatt's claims.	N/A
23. HC has no personal property in the State of New York nor in the British West Indies.	Plaintiff lacks sufficient information to dispute or not dispute the facts alleged and requests jurisdictional discovery in order to properly evaluate Hyatt's claims.	
24. HC has never filed a tax return in the State of New York nor in the British West Indies.	Plaintiff lacks sufficient information to dispute or not dispute the facts alleged and requests jurisdictional discovery in order to properly evaluate Hyatt's claims.	N/A
25. The statements numbered 10 through 25 herein, are also true as to HC's parent company, HHC.	Plaintiff lacks sufficient information to dispute or not dispute the facts alleged and requests jurisdictional discovery in order to properly evaluate Hyatt's claims.	N/A

#### STATEMENT OF ADDITIONAL FACTS

Archibald's Statement	Support for Statement

26. Defendant marketed and promoted the Park Hyatt St. Kitts on its website, Hyatt.com, to consumers in New York, including Plaintiffs.	Archibald Declaration ¶¶8-13; Complaint ¶¶33-36; 49
27. World of Hyatt loyalty rewards program is a program in which customers earn points which can be used to book stays at Hyatt resorts worldwide.	Archibald Declaration ¶¶8-13.
28. Hyatt operates the World of Hyatt rewards program.	Archibald Declaration ¶¶8-13
29. Hyatt promotes Hyatt hotels in New York through advertising.	Complaint . ¶¶33-36; 49
30. Hyatt promotes the use of the World of Hyatt Rewards program in New York.	Complaint. ¶¶33-36; 49
31. Defendant offered, and continues to offer, its World of Hyatt loyalty rewards program to consumers in New York, including Plaintiffs.	Archibald Declaration ¶¶21-22.



32. Hyatt issued a post on Instagram wherein it encouraged New York residents like Z.A.'s parents to book a stay at the resort using World of Hyatt rewards points.	Complaint ¶¶ 32-33.
33. Carmit Archibald was a member of the World of Hyatt Rewards Program.	Complaint ¶37.
34. Carmit Archibald used her World of Hyatt Rewards Points to book a stay at the resort.	Complaint ¶37.
35. Hyatt's webpage for the resort caused Carmit Archibald to believe that the resort was owned and operated by Hyatt.	Archibald Declaration ¶¶21-25.
36. The Park Hyatt logo is displayed prominently on the resort's website.	Complaint ¶49.
37. The reservation and booking emails that Carmit Archibald received were sent from an @hyatt.com email address.	Complaint ¶50

38. Once at the resort Carmit Archibald saw Hyatt branded stationary at the resort.	Complaint ¶50.
39. Carmit Archibald saw Hyatt branded signage at the Resort.	Complaint ¶50.
40. Z.A.'s parents purchased a sun shirt for Z.A. at the resort and received indicating the shirt was sold by Hyatt.	Complaint ¶52.
41. Z.A.'s parents received a Concierge Guide with the Hyatt Brand.	Complaint ¶53.
42. Carmit Archibald did not see anything at the resort to indicate that it was not owned and operated by Hyatt.	Archibald Declaration ¶25.
43. Hyatt files an annual 10-k report.	Hyatt Hotels Corp., Annual Report (Form 10-K) (Feb. 23, 2023), available at <a href="https://d18rn0p25nwr6d.cloudfront.net/CIK-0001468174/311c84ef-5bee-4d6d-8008-eb5627900">https://d18rn0p25nwr6d.cloudfront.net/CIK-0001468174/311c84ef-5bee-4d6d-8008-eb5627900</a>

44. In that report Hyatt acknowledges that some Courts have applied agency principals to managers of third-party hotels like Hyatt.	Hyatt Hotels Corp., Annual Report (Form 10-K), at 17 (Feb. 23, 2023), available at <a href="https://d18rn0p25nwr6d.cloudfront.net/CIK-0001468174/311c84ef-5bee-4d6d-8008-eb5627900">https://d18rn0p25nwr6d.cloudfront.net/CIK-0001468174/311c84ef-5bee-4d6d-8008-eb5627900</a>
45. Z.A. sustained injuries while on a family vacation at the resort.	Complaint ¶¶ 58-59
46. On or about April 09, 2023, while swimming and playing basketball in the pool at the Park Hyatt St. Kitts, an aquatic basketball hoop toppled over and caused Z.A. to suffer severe personal injuries, including scarring and facial disfigurement.	Complaint ¶ 58.
47. Z.A. is a New York resident.	Archibald Declaration ¶ 4
48. Carmit Archibald is Z.A.'s mother.	Archibald Declaration ¶ 5
60. Hyatt's website is controlled by Hyatt Corp.	Complaint Exhibit A.

Dated: October 16, 2024

Respectfully submitted,

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